2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Implementation of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)

Report submitted by Brazil

Article I

1. Both individually and as a member of the New Agenda Coalition, Brazil has consistently called upon the five States known as Nuclear Weapon States (NWS) under the Treaty to undo the effects of the nuclear proliferation they engaged in through the accumulation of weapons, hence to strive to achieve nuclear disarmament. Like other types of weapons of mass destruction, which are prohibited under their respective regimes, nuclear weapons should be completely eliminated. There should be no excuse for its use, indefinite retention, development or acquisition. The NPT is instrumental for this objective.

Article II

2. The Brazilian Constitution expressly forbids all non-peaceful nuclear activities. It effectively outlaws all activities involving nuclear weapons, which are prohibited within the national territory, in line with Brazil's commitments and obligations under the NPT.

3. Brazil does not possess — nor has it ever developed — nuclear weapons. Brazil has always fulfilled its nuclear non-proliferation commitments. Legislation in force prohibits and prevents the testing, use, manufacture, production or acquisition by any means of any nuclear explosive device in its territory. Furthermore, Brazil abstains from carrying out, promoting or authorizing, directly or indirectly, or from participating, in any way, in any of the said activities. Brazil is not a party to any strategic alliance or security system that contemplates the possibility of using nuclear weapons.

4. Brazil shares the concerns about the risk that weapons of mass destruction and related technologies may fall into the hands of non-State actors or terrorists. Such risk only strengthens the need to work towards complete nuclear disarmament. Brazil believes that the need to curb proliferation should not in any way justify the indefinite retention of nuclear weapons by any State, or hamper either the economic

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and technological development of the Parties or international cooperation in the field of peaceful nuclear activities.

5. The concern about proliferation outside the Treaty is legitimate. Complacency with proliferation outside the NPT is inconsistent with efforts to strengthen the Treaty's regime and may defeat the purpose of eliminating nuclear weapons. The goal of universality must be stressed in this regard.

6. Besides the obligations derived from the Non-Proliferation Treaty (NPT) and the incorporation into its national legislation of the guidelines adopted in the context of the Nuclear Suppliers Group (NSG), of which it is a member, Brazil has developed national legislation for the control of every nuclear activity, which defines specific penalties for activities not authorized by the Government in this field. This legislation is in line with United Nations Security Council resolution 1540 (2004):

- The Federal Constitution of 1988[1] determines that "all nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress";
- Act No. 4.118, of August 27, 1962,[2] created the National Commission for Nuclear Energy (CNEN). It determines that all activities related to the nuclear field (transfer, possession, development, production etc.) are a monopoly of the State. It establishes that control of these activities is incumbent upon CNEN. It defines as a crime against national security the clandestine export or import of nuclear materials (Article 39). Furthermore, it prohibits the possession or transfer of nuclear materials, including by-products, without explicit authorization from CNEN, even within the domestic market (Article 40);
- Act No. 6.453, of October 17, 1977,[3] established civil responsibility for nuclear damages and criminal responsibility for acts related to nuclear activities. It defined and penalized the production, processing, supplying and use of nuclear material without necessary authorization or for other purposes than those allowed by law (Article 20), as well as the export and import of nuclear material without due official licence (Article 25). If related to terrorist acts, the penalties associated to these offences are cumulative to those provided for crimes of terrorism.

Article III

7. All of the nuclear material in Brazil is accounted for by the National Commission for Nuclear Energy (CNEN) and is subject to IAEA Comprehensive Safeguards.

8. In addition, Brazil and Argentina have established the Brazil-Argentine Agency for Accounting and Control of Nuclear Material (ABACC), which is responsible for the administration and application of the Common System of

[1] Federal Constitution, Article 21, paragraph XXIII, literal "a".

[2] Published in the "Official Journal of the Union" of August 27, 1962. Text in Portuguese available at https://www.planalto.gov.br.

[3] Published in the "Official Journal of the Union" of October 17, 1977. Text in Portuguese available at https://www.planalto.gov.br.

Accounting and Control (SCCC) of all nuclear activities in Brazil and Argentina, with a view to ensuring that no material is diverted or used in an inappropriate or unauthorized manner, in conformity with the purposes of the Bilateral Agreement that created the Agency.

9. The Quadripartite Agreement between Brazil, Argentina, ABACC and IAEA (December 13, 1991) subjects all of Brazil's nuclear activities to IAEA Comprehensive Safeguards. Physical monitoring of nuclear activities, as mandated under the NPT, is conducted both by IAEA and ABACC (under the terms of the Quadripartite Agreement). Such monitoring started before Brazil's accession to the NPT. All 35 Brazilian nuclear facilities are under international ABACC and IAEA safeguards, including one uranium isotopic enrichment laboratory and one uranium enrichment pilot plant that are located at military facilities. About 60 IAEA and ABACC on-site inspections are conducted every year.

10. The concern that peaceful nuclear programmes may be used as cover for nuclear proliferation must be shared by the entire international community. However, the proposals that have been made to counter this concern tend, on the one hand, to ignore the successful track record of the system of safeguards now in place for non-nuclear-weapon IAEA members; and, on the other, to wrongly blame the NPT for loopholes that supposedly render it ineffective to combat nuclear non-proliferation.

11. Brazil has always supported the strengthening of the safeguards system within the IAEA and agrees that there is a need for additional measures to be negotiated between individual Parties and the Agency. It is Brazil's view that the strengthening of safeguards should be assessed in the light of the wider disarmament and non-proliferation context. Non-proliferation has been emphasized of late, with a view to extracting further commitments from non-nuclear-weapon States. Further measures to strengthen the current safeguards regime should not result in additional financial burden on Member States, particularly developing countries. It is important to maintain a balance in the activities of the Agency regarding verification on the one hand and promotion of peaceful applications of nuclear energy, including technical assistance on the other.

Article IV

12. The NPT clearly recognizes the inalienable right to the development and use of nuclear energy for peaceful ends, which predated the Treaty. This recognition of this inalienable right was a central part of the bargain that was struck at the creation of the nuclear disarmament and non-proliferation regime. This bargain was at the core of the creation of the IAEA, and it was later to prove instrumental in establishing the NPT and in making it a permanent, quasi-universal regime.

13. Brazil has been a member of the IAEA since 1957. It participates in an active and constructive manner in the work of the Agency, with the aim of ensuring the right to the peaceful use of nuclear technology and to promote international cooperation in this field.

14. The development and uses of nuclear energy for exclusively peaceful purposes is a fundamental principle of our national policy, which is enshrined in our Constitution. We remain convinced of the potential benefits of the responsible use

of nuclear technologies and of the synergies fostered by international cooperation in the nuclear field, for which the work of the IAEA is of great importance.

15. Brazil receives significant benefits from international cooperation. It also assists others by supplying them with technical cooperation in the field of nuclear science and peaceful nuclear technology applications.

16. Brazil maintains nearly 20 bilateral nuclear cooperation agreements, with both developed and developing countries. In the multilateral arena, Brazil attributes particular relevance to the IAEA Technical Cooperation Programme (TCP), of which it is an active participant, both as a beneficiary and as a donor of technical cooperation. Such activities have been of the essence for the country's peaceful uses of nuclear energy, as well as for its collaboration with other countries, mainly in Latin America.

17. Under the aegis of the TCP, Brazil sends 50 technicians for training abroad every year. Furthermore, it extends over 40 scholarships for nationals of Latin American and Caribbean, African, and Asian countries to receive training at Brazilian institutions. Brazil also makes available about two dozen of its nuclear specialists every year to serve in the context of IAEA expert missions abroad.

18. Brazil has been an active participant of the Regional Cooperative Agreement for the Advancement of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL) since the 1980s, mainly as a donor country, both by making scholarships at its nuclear institutions available for training Latin American and Caribbean experts, as well as by making Brazilian experts and instructors available to assist other countries in the region.

19. Brazil also participates in international initiatives with a view to developing innovative reactor designs, such as INPRO and Generation IV.

20. Nuclear techniques are being applied by Brazil, in close collaboration with its Mercosul partners, Argentina, Paraguay and Uruguay, in order to harness the full potential of the "Guarani Aquifer" (underground water reservoir), one of the world's largest underground fresh water reserves, which spans the four countries.

21. Regarding the peaceful uses of nuclear energy, Brazil presently operates two nuclear power stations, which generate approximately 2,000 MW, or 3 per cent of the country's total electrical power generation. Brazil is endowed with the world's sixth largest uranium ore reserves, with 70 per cent of the territory still to be prospected.

22. Brazil has developed wide-ranging production capabilities, from mining and processing of uranium to UO_2 and nuclear fuel element production, all the way to isotopic uranium enrichment. Uranium enrichment activities were started in 1987 at the Aramar Experimental Center, which developed the technology indigenously. Brazil's first industrial nuclear fuel facility, located at Resende, is now fully operational.

23. Besides electrical power generation, Brazil's nuclear activities extend to wide-ranging applications in medicine, agriculture, industry and environmental protection. Over 600 hospitals use nuclear techniques for both in vitro and in vivo procedures. More than 450 clinical facilities apply radiopharmaceutical products in over 2.5 million medical procedures every year. Furthermore, there are approximately 200 specialized laboratories, which conduct radio-immune assays.

24. Nearly 600 industrial plants use radioisotopes, e.g. in food irradiation, polymerization, industrial radiography and oil-well operations.

Article V

25. The Final Document of the 2000 Review Conference affirms that provisions in this article are to be interpreted in the light of the Comprehensive Nuclear-Test-Ban Treaty (CTBT). Brazil signed the CTBT on the date it opened for signature, 24 September 1996, and ratified it soon afterwards.

26. In line with this commitment, Brazil also revoked its the reservations under the Tlatelolco Treaty concerning peaceful nuclear explosions, thus relinquishing the right to conduct them.

27. Brazil has consistently called for the universalization of the CTBT. Furthermore, it continues to call for signatories that have not done so, particularly those 11 States listed in Annex 2 of the Treaty, to ratify it with a view to its early entry into force.

Article VI

28. Nuclear non-proliferation and nuclear disarmament are mutually reinforcing processes. Thus, the strengthening of the safeguards system is expected to go hand in hand with concrete progress towards the goal of nuclear disarmament. Fulfilment of all 13 steps agreed at the 2000 NPT Review Conference is crucial in this context.

29. Brazil decided to adhere to the NPT to act more effectively in favour of nuclear disarmament, and to join other Parties in their efforts to correct the Treaty's imbalances and to contribute to its universality and enhanced credibility. The Brazilian Congress approved Brazil's accession under the understanding that "effective measures will be taken with a view to the cessation of the nuclear arms race at an early date and the total elimination of nuclear weapons", as stated in the Legislative Decree that approved the NPT.

30. Brazil welcomes the announcements regarding substantial reductions in nuclear arsenals. The reductions in the numbers of deployed strategic nuclear warheads envisaged by the Treaty of Moscow represent a positive step in the process of nuclear de-escalation.

31. However, Brazil notes that the fundamental principles of verification and irreversibility should be applied to all disarmament measures. There should be no possibility of redeploying nuclear weapons in current non-operational status, for this would render unreliable nuclear weapon reduction figures and statistics. Particularly disturbing are new approaches concerning the role of nuclear weapons in security strategies, especially studies on the possible development of low yield nuclear weapons and plans related to their tactical uses, including countering conventional forces.

32. The "unequivocal undertaking" agreed upon in 2000 should be demonstrated by further, stronger nuclear disarmament measures. Little has been done since 2000 by the 5 NWS to reduce the importance of nuclear weapons at their defence and strategic doctrines. The continuous importance attached by the 5 NWS to nuclear weapons suggests to the rest of the world that such weapons are indeed relevant to security needs. This perception may generate genuine interest in such an option in other Parties, which would in turn stoke the flames of nuclear proliferation.

Article VII

33. Brazil is a founding member of the first nuclear-weapon-free zone in an inhabited region of the world, which is the hallmark of the Treaty of Tlatelolco adopted by all Latin American and the Caribbean States in 1967. This Treaty, which actually predates the NPT itself, has now been ratified by every country in the region, and it is considered a beacon for other initiatives modelled after it around the world.

34. We strongly support the implementation of nuclear-weapon-free zones and consider that they shall play an increasingly important role with a view to promoting the building of mutual confidence and nuclear disarmament worldwide. In that spirit, Brazil participated in the Conference of Nuclear-Weapon-Free Zones, held from April 26 to 28, 2005 at the site of the signing of the Treaty of Tlatelolco.

35. In 2004, the State parties to the Treaty of Tlatelolco renewed their call to the Nuclear-Weapon States to extend them negative security assurances under the aegis of the Protocols of the Treaty. Unfortunately, once again the Nuclear-Weapon States' response has been discouraging, as they have chosen to hold on to their reservations to the Protocols. Brazil will continue to encourage the NWS to review this position, both bilaterally and as a State party to the Treaty of Tlatelolco.

36. We welcome the support of many States to the resolutions adopted at the fifty-sixth session of the United Nations General Assembly with a view to establishing or consolidating nuclear-weapon-free zones.

Article VIII

37. Every nation holds high stakes in the promotion of the nuclear disarmament, peaceful development and use, and non-proliferation goals of the NPT. The backdrop of disquieting developments which have taken place over the last 15 years make it ever more important to strengthen the Treaty's accountability and sustainability over the long run.

38. Such a review process should holistically consider all of the NPT State parties' commitments under the aegis of the Treaty.

39. Confidence in the review process as a guarantor of the fundamental bargain on which the Treaty is based should not be allowed to erode.

Article IX

40. Brazil considers that the universalization of the NPT remains one of the key challenges for the future of the Treaty. Accordingly, it has repeatedly called on those States not yet party to the Treaty to accede to it as non-nuclear-weapon States Parties. At the same time, it notes with concern that there are visible, worrisome signs of a gradual accommodation of the "de facto" nuclear status of those States that are not yet Parties to the NPT and have failed to renounce the nuclear-weapons option. Such an attitude would contradict the letter and the spirit of the NPT as well as of United Nations Security Council resolution 1172. Brazil also recalls and fully supports the 2000 Review Conference Final Document declaration that nuclear tests "do not in any way confer a nuclear-weapon State status or any special status whatsoever".

41. Furthermore, on February 11, 2005 Brazil deplored the announcement by the Democratic People's Republic of Korea (DPRK) that it is in possession of nuclear weapons and that it intends to continue to develop them. We thus reaffirm our call to the DPRK to reconsider this decision and to reaffirm its commitments under the NPT. Brazil considers that the 2005 NPT Review Conference has, in this regard, a twofold task: to urge non-States Parties to accede to the NPT without conditions and without delay, and to call on States Parties to refrain from any action that may contravene or undermine the fulfilment of the objectives of the Treaty as well as of relevant United Nations resolutions.

Article X

42. Brazil considers that the decision to withdraw from the NPT is a sovereign right that is widely recognized under international law. The indefinite extension of the NPT adopted at the 1995 Review Conference has not in any way altered the validity of Article X as it concerns the withdrawal procedure, which Brazil considers to conform to international conventional practice.

43. Considering the nature of the Treaty and its relevance for international peace and stability, Brazil considers that Article X entreats the United Nations Security Council to engage itself in diplomatic negotiations to address the reasons adduced by a State to seek its withdrawal from the NPT.

44. Furthermore, Brazil considers that ways should be sought to make withdrawal from the NPT more onerous a decision for States Parties to take, especially if such withdrawal is associated to the intent to engage in nuclear proliferation or in any other way to erode the Treaty's effectiveness. Such consideration should take into account the implications that actions discouraging withdrawal may have for legitimate rights under other conventions and agreements, including those of a commercial nature.